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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,872

10/12/2006

Robert Uden

5893

60333

7590

10/08/2008

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

10/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,872	<b>Applicant(s)</b> UDEN, ROBERT	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/12/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergmann. The reference to Bergmann discloses the recited fluid conditioner, where the use of such with water is merely intended use where the structure is capable of use with any fluid, comprising a pipe 1, a plate 7 located in the pipe and having at least one side of the plate means for causing the water flow to adopt a torturous path through the pipe, including a plurality of posts 6 which also would be considered longitudinal ribs as well where some posts 6 can be considered posts and some can be considered ribs, they extend from the sides and tops of the plate, they are adjacent an inner surface of the pipe, they are in rows that are parallel to a longitudinal axis of the plate, the posts are at a normal angle, and the plates and posts have the same height, the posts pass through the plate.

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Claims 13-15, 17-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Long. The reference to Long discloses the recited fluid conditioner, where the use of such with water is merely intended use where the structure is capable of use with any fluid, comprising a pipe formed by tower 1, a plate 2 located in the pipe and having at least one side of the plate means for causing the water flow to adopt a torturous path through the pipe, including a plurality of posts 4 and longitudinal ribs 3a, they extend from the sides and tops of the plate, they are in rows that are parallel to a longitudinal axis of the plate, the posts are at a normal angle, and the plates and posts have substantially the same height, the posts pass through the plate.

Claims 13-17, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Getchell. The reference to Getchell discloses the recited fluid conditioner, where the use of such with water is merely intended use where the structure is capable of use with any fluid, comprising a pipe 7, a plate 15 located in the pipe and having at least one side of the plate means for causing the water flow to adopt a torturous path through the pipe, including a plurality of posts 16, the posts are at a normal angle to the plate, and means for directing the flow into the central position such as a truncated conical member 5 located at the inlet of the pipe, the posts pass through the plates.

Claims 13, 14, 16-19, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Schindler. The reference to Schindler discloses the recited water

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conditioner, comprising a pipe 1, a plate 10 located in the pipe and having at least one side of the plate means for causing the water flow to adopt a torturous path through the pipe, including a plurality of posts 11 which also would be considered longitudinal ribs as well where some posts 11 can be considered posts and some can be considered ribs, they extend from a side of the plate, they are substantially adjacent an inner surface of the pipe, they are in rows that are parallel to a longitudinal axis of the plate, the posts are at a normal angle, and the plates and posts have the same height, where the posts being made of magnetic material would inherently create an EMF field.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergmann in view of Bey. The reference to Bergmann discloses all of the recited structure with the exception of forming the ribs of different heights. The reference to Bey discloses a flow deflecting plate as seen in figure 7 which has a plate that is oriented in the vertical direction with a plurality of ribs 62,64,66,68 of different lengths to match the curve of the inside of the pipe. It would have been obvious to one skilled in the art to modify the plates in Bergmann to be of varied heights to match the curve in a

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pipe wall as suggested by Bey where such would inherently insure mixing even close to the wall of the pipe.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Smythe, Doom, Jensen, Gilligan, Boatman, Herbst, Farkas, and Suddath disclosing state of the art flow conditioners including EMF conditioners.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH